

REMARKS

Claims 1-38 are now pending in the application.

ELECTION REQUIREMENT

- I. Claims 1-9 and 19-38, drawn to a suture anchor, classified in class 606, subclass 73.
- II. Claims 10-18, drawn to a method of providing a suture in a suture anchor having a suture passage formed, classified in class 606, subclass 228.

Applicants respectfully traverse the election requirement and request reconsideration and withdrawal or modification of the initial restriction requirement.

SPECIES RESTRICTION

- I. Species I depicted in Figures 1-3 having four suture eyelets.
- II. Species II depicted in Figures 4-6 having four suture eyelets and turnaround surface area T.
- III. Species III depicted in Figures 7-10 having two suture eyelets and two apertures for viewing the passage portion.
- IV. Species IV depicted in Figures 11-18 having two suture eyelets and two portals for accessing the passage portion.
- V. Species V depicted in Figures 19-21 having a tip with an expander portion.
- VI. Species VI depicted in Figures 22-24 having a tip that forms an apex of a cone.

VII. Species VII depicted in Figures 25-26 having an engaging end that tapers to a shoulder or edge portion.

Applicants respectfully traverse this election requirement and request reconsideration and withdrawal or modification of the initial species requirement because the Applicants submit the Office Action does not establish a *prima facie* showing that the Species identified in the apparatus claims of Group I are not related enough to simultaneous examination and that there is a serious burden on the examiner. Claimed inventions can be shown to be distinct by providing an appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02. Although the Office Action provides that the species are patentably distinct, the applicants submit that the Office Action does not provide support for this conclusion, and therefore the Office Action does not establish a *prima facie* showing that the Species are distinct and that there is a serious burden on the examiner. Applicants submit that at least Species I, II, III, and IV should be grouped into a single species because each relate to the other because the member includes an eyelet to receive a material and an anchor portion to engage an anchoring site.

ELECTION WITH TRAVERSE

With traverse, however, Applicants elect, for initial Examination the claims of Group I (Claims 1-9 and 19-38). Applicants do, however, reserve the right to file any unelected claims in later filed divisional patent applications. Applicants submit that Species I-IV should be combined into a single species and elects such a species for

examination at this time. Applicants submit that claims 1-9, 19-24, 25-27, 30-35 read on these species. Even if the Office does not agree with Applicants' argument for combination of species I-IV, Applicants hereby provisionally elect Species IV for initial examination on which each of the above-referenced claims read. Applicants reserve the right to file any of the unelected claims in a divisional application or have the unelected claims examined after the allowance of a generic claim or linking claim as discussed above.

CONCLUSION

It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this response is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Date:

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